

United States Government

NATIONAL LABOR RELATIONS BOARD

Region 6

1000 Liberty Avenue - Room 1501

Pittsburgh, PA 15222-4173

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www.nlrb.gov

October 23, 2003

Re: Ward Mfg. Co., and
ACP Mfg. Co., LLC
Case 6-UC-454

Mimi C. Satter, Esquire
Satter & Andrews, LLP
217 S. Salina Street
Syracuse, NY 13202

Dear Ms. Satter:

The above-captioned case, petitioning for clarification of a bargaining unit under Section 102.60(b) of the Board's Rules and Regulations, has been carefully investigated and considered.

As a result of the investigation, it appears that further proceedings are not warranted at this time inasmuch as the evidence fails to establish that a UC petition is appropriate in the circumstances of this case. The investigation revealed that Ward Mfg. Co. and ACP Mfg. Co., LLC operate separate facilities in Tioga County, Pa., approximately twenty-two miles from each other, at which they manufacture malleable iron products and ductile iron products, respectively. Ward has had a collective-bargaining relationship with Glass, Molders, Pottery, Plastics and Allied Workers International Union, Local 304B and its predecessor unions for over 40 years. It is undisputed that since 1995, the employees of both facilities have been represented by the Union in a single bargaining unit covered by two separate collective-bargaining agreements.

At all times relevant here, Ward Manufacturing Company has been a wholly-owned subsidiary corporation of Hitachi Metals of America, Inc. and until 1999, ACP was an operating division of Ward. In 1999, Hitachi reorganized the ACP division into ACP Manufacturing Company, LLC, a separate wholly-owned subsidiary of Hitachi. Despite this change in corporate structure, there has been no significant change in the management at either facility with five high level officials holding the same classification for each company. In addition, the Union does not assert that this change had in any significant impact on the day-to-day operation of either plant.

In Batesville Casket Co., 283 NLRB 795, 125 LRRM 1052 (1987), the Board found that to subdivide an existing two-company bargaining unit through the unit clarification process, the Petitioner must demonstrate (1) substantial recent changes in the operation, or (2) compelling circumstances to justify the change, or (3) that the "historical unit no longer conforms reasonably to the normal standards of appropriateness." 125 LRRM at 1053. The investigation herein disclosed no such bases for subdividing this unit into two single plant units. Specifically,

there is no assertion by the Petitioner that there have been any substantial recent changes in the operations of either Ward or ACP. Even the corporation reorganization in 1999 does not appear to have had a significant impact on the operation of the plants or the represented employees. All of the factors raised by the Union in support of this position have existed since the parties initially agreed to a single unit. Additionally, there are no "compelling circumstances" that would warrant disregarding the long-existing bargaining history of the two-plant unit. Finally, the historical single unit of Petitioner's employees is not contrary to the provisions of the Act. Under all of these circumstances, I find that the instant UC petition to be inappropriate and I shall dismiss the same.

Pursuant to the National Labor Relations Board Rules and Regulations, Series 8, as amended, you may obtain a review of this action by filing a request therefor with the National Labor Relations Board, addressed to the Executive Secretary, National Labor Relations Board, Washington, DC, 20570. A copy of such request for review must be served on the Regional Director and each of the other parties to the proceeding. This request for review must contain a complete statement setting forth the facts and reasons upon which it is based. The request for review (eight copies) must be received by the Executive Secretary of the Board in Washington, DC, by the close of business at 5:00 p.m., on November 5, 2003. Upon good cause shown, however, the Board may grant special permission for a longer period within which to file. The request for extension of time should be submitted to the Executive Secretary of the Board in Washington, DC, and a copy of any such request for extension of time should be submitted to the Regional Director, and to each of the other parties to this proceeding.

The request for review and any request for extension of time for filing must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding, and the copy must be served in the same or faster manner as that utilized in filing the request with the Board. When filing with the Board is accomplished by personal service, however, the other parties shall be promptly notified of such action by telephone, followed by service of a copy by mail or telegram.

Very truly yours,

Gerald Kobell
Regional Director

See page 3 for parties receiving copies:

Ward Mfg. Co., and ACP MFG Co., LLC
Case 6-UC 454

cc:

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